
UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS

STACEY D. HOWARD,
TDCJ 735266,

Plaintiff,

versus

BARBARA K CASTLEBERRY, *ET AL.*,

Defendants.

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CIVIL ACTION H-14-415

Opinion on Dismissal

Stacey D. Howard is a Texas prisoner. He is proceeding as a pauper. Howard sues prison guard Barbara Castleberry and Assistant Warden Selman. He claims Castleberry deprived him of his personal property. He says an assistant warden ignored this and covered up the theft.

Howard's allegations follow. On September 8, 2013, his eyeglasses and case had slipped out of his pocket without his noticing. Officer Castleberry saw this and retrieved the glasses. She said to Howard: "Hey, do you want these?" He responded, "Yes ma'am, thanks. I appreciate it," and reached for his glasses. She moved her hand back and told Howard to beg for his glasses. He responded: "I'll give you another big thank you, however, I'm an ex-marine. We don't beg." She screamed: "I'll break these mother fuckers and throw them away." She twisted and crushed the glasses and threw them in a garbage can.

Howard later recovered his mangled glasses from the garbage can. Howard complained to Selman and filed a grievance. Selman ignored the complaint of Castleberry's misconduct. Howard contends the warden denied him due process in ignoring Castleberry's actions, denying his grievance, and failing to redress the damage he suffered. Howard seeks reimbursement for the destruction of the eyeglasses.

Random property deprivations do not violate due process where the plaintiff has an adequate post-deprivation remedy under state law. *Hudson v. Palmer*, 468 U.S. 517, 535

(1984). Texas provides a reasonable post-deprivation remedy for the loss of personal property. *Murphy v. Collins*, 26 F.3d 541, 543-44 (5th Cir. 1994); *Myers v. Adams*, 728 S.W. 2d 771, 772 (Tex. 1987).

Howard fails to state a claim recognized at law. 28 U.S.C. § 1915(e)(2)(B). This case will be dismissed. The Texas Department of Criminal Justice will deduct 20% of each deposit made to Howard's inmate trust account and pay this to the court regularly, provided the account exceeds \$10, until the filing fee, \$350, is paid. The clerk will send a copy to the Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629, Fax: 936-437-4793 and to the District Clerk for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas 75702, Attention: Betty Parker.

Signed March 6, 2014, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'Lynn N. Hughes', written over a horizontal line.

Lynn N. Hughes
United States District Judge